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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,599	02/04/2005	Franz-Josef Behler	HOEG-1020	1350
20028	7590	05/16/2007		
Lipsitz & McAllister, LLC 755 MAIN STREET MONROE, CT 06468			EXAMINER ROST, ANDREW J	
			ART UNIT	PAPER NUMBER
			3753	
			MAIL DATE	DELIVERY MODE
			05/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,599

Applicant(s)

BEHLER ET AL.

Examiner

Andrew J. Rost

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/05/2007 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Harris et al. (5,829,620).

Harris et al. disclose a valve having a container with a ring-shaped neck section (12), a flange part (14) being inserted into the ring-shaped neck section with the flange part having a collar (56), a cylindrical section (64), and a conical taper (the conical taper is conical narrowing of the flange part between annular flange 58 and axially inner end 22), and a sealing module (20) located between the ring-shaped neck section and the

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flange part (Fig. 4) with a seal being formed between the conical taper and the ring-shaped neck section.

4. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Spitzberg (3,294,274).

Spitzberg discloses an assembly having a flange part (24) inserted into a neck section (18) of a container (10) with the flange part having a collar (34) extending transversely to a cylindrical section (portion of 24 that connects collar 34 to horizontal member 24 in fig. 3) with the flange part tapering, and a sealing member (fig. 2) having a disk-shaped section (40 and 38) that abuts the collar and the neck section and the sealing member having an upper part (42) between the neck section and the cylindrical section (the use of directional terms, i.e. upper, are relative and can be achieved with the orientation of the assembly).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. in view of Auzureau (5,988,423).

Harris et al. disclose a valve having a ring-shaped neck section, a flange part and a sealing module between the ring-shaped neck section and the flange part. Harris et al. do not disclose the sealing module folding a free end of the sealing module around a replaceable sealing element or having the free end of the sealing module having a corrugated terminal section. However, Auzureau teaches the use of a corrugated terminal section (Fig. 2a, 2b) and the use of a sealing module having a free end folding around a sealing element (Fig. 4a, 4b, 5a, 5b) for the purpose of providing a hermetic seal necessary for the proper preservation of different products in a container (col. 4, lines 7-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to fold a free end of the sealing module around a sealing element or to corrugate the free end of the sealing module of Harris et al. as taught by Auzureau in order to provide a hermetic seal necessary for the proper preservation of different products.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. in view of Kieper (5,785,074).

Harris et al. disclose a valve having a ring-shaped neck section, a flange part and a sealing module between the ring-shaped neck section and the flange part. Harris et al. do not expressly disclose the construction of the sealing module of polytetrafluoroethylene. However, Kieper teaches the use of Teflon (trade name for polytetrafluoroethylene) for a seal member (col. 6, lines 21-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made

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to produce the sealing module of Harris et al. of polytetrafluoroethylene as taught by Kieper in order to increase the seal life.

8. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spitzberg in view of Auzureau (5,988,423).

Spitzberg disclose an assembly having a neck section, a flange part and a sealing module between the neck section and the flange part. Spitzberg does not disclose the sealing module folding a free end of the sealing module around a replaceable sealing element or having the free end of the sealing module having a corrugated terminal section. However, Auzureau teaches the use of a corrugated terminal section (Fig. 2a, 2b) and the use of a sealing module having a free end folding around a sealing element (Fig. 4a, 4b, 5a, 5b) for the purpose of providing a hermetic seal necessary for the proper preservation of different products in a container (col. 4, lines 7-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to fold a free end of the sealing module around a sealing element or to corrugate the free end of the sealing module of Spitzberg as taught by Auzureau in order to provide a hermetic seal necessary for the proper preservation of different products.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spitzberg in view of Kieper.

Spitzberg disclose an assembly having a neck section, a flange part and a sealing module between the neck section and the flange part. Spitzberg does not expressly disclose the construction of the sealing module of polytetrafluoroethylene. However, Kieper teaches the use of Teflon (trade name for polytetrafluoroethylene) for a seal member (col. 6, lines 21-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to produce the sealing module of Spitzberg of polytetrafluoroethylene as taught by Kieper in order to increase the seal life.

Response to Arguments

10. Applicant's arguments filed 2/5/2007 have been fully considered but they are not persuasive.

In response to the applicant's arguments on page 6, these arguments are not persuasive. The claim recitation of "especially for enameled containers of the chemical industry having a ring-shaped necked section with a container wall provided with enameling" in claim 1, lines 1-3 is a recitation of intended use and is given little patentable weight. Further, Harris discloses the placement of a seal (20) with the seal having an upper part (42, with upper being the relative position with respect to the centerline of the assembly) that provides a seal between the conical taper (the conical taper is conical narrowing of the flange part between annular flange 58 and axially inner end 22) and the ring-shaped necked section. Harris discloses a cylindrical portion (also upper part 42) that seals between the flange part and the container wall (fig. 4).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Rost whose telephone number is 571-272-2711. The examiner can normally be reached on 7:00 - 4:30 M-Th and 7:00 - 12:00 Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on 571-272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AJR, ASR 11 MAY 2007



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